



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Steven D. Barnes

JUL 19 2017

Sanford, FL 32773

RE: MUR 7162

Dear Mr. Barnes:

The Federal Election Commission reviewed the allegations in your complaint received by the Commission on October 24, 2016. Based upon the information provided in the complaint, as well as information provided by the Respondents in this matter, the Commission decided to exercise its prosecutorial discretion to dismiss the allegations and close the file in this matter. Accordingly, the Commission closed its file on July 6, 2017. A copy of the dispositive General Counsel's Response is enclosed for your information.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009).

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 52 U.S.C. § 30109(a)(8).

If you have any questions, please contact Wanda D. Brown, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Lisa J. Stevenson
Acting General Counsel

BY: 
Jeff S. Jordan
Assistant General Counsel

Enclosure: General Counsel's Report

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BEFORE THE FEDERAL ELECTION COMMISSION

**ENFORCEMENT PRIORITY SYSTEM
DISMISSAL REPORT**

MUR: 7162

Complaint Receipt Date: Oct. 24, 2016.

Response Date(s): Nov. 10, 2016

Respondents: John L. Mica

Mica for Congress and

W. Edward Langdon, as treasurer
(collectively the "Committee")

EPS Rating: [REDACTED]

Alleged Statutory/

52 U.S.C. § 30120(d)(1)(B)(ii)

Regulatory Violations:

11 C.F.R. § 110.11(c)(3)(ii)- (iii)

The Complaint alleges that John L. Mica, 2016 candidate for U.S. Representative from Florida's 7th Congressional District, and Mica for Congress, Mica's authorized committee, violated the Federal Election Campaign Act of 1971, as amended ("the Act") and Commission regulations by failing to include a disclaimer with a written "stand by your ad" statement from the candidate at the end of a television advertisement.¹ Instead, the Complaint alleges that a written disclaimer, which did not include the required statement, was placed at the beginning of the ad.² The ad did include an audio statement of approval by Mica at the beginning of the ad.³ The Committee acknowledges its error in the placement and content of the written disclaimer and notes that it immediately corrected it, before the Complaint was filed.⁴

The Act and Commission regulations require that television communications by candidates contain disclaimers that include, among other things, a spoken "stand by your ad" statement by the

¹ Compl. at 2 (Oct. 24, 2016).

² *Id.*

³ The ad, titled "DC's Perfect Candidate," is available at <https://www.youtube.com/watch?v=9tI0GUljxzY>.

⁴ Resp. at 1 (Nov. 10, 2016).

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candidate both identifying the candidate and approving the communication.⁵ The statement must also appear in writing at the end of the communication.⁶ Although the Committee included a written disclaimer and an audio "stand by your ad" statement, the ad was technically noncompliant because the written disclaimer appeared at the beginning of the ad, not the end, and it did not say that Mica had approved the communication.

Based on its experience and expertise, the Commission has established an Enforcement Priority System using formal, pre-determined scoring criteria to allocate agency resources and assess whether particular matters warrant further administrative enforcement proceedings. These criteria include (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations and other developments in the law. This matter is rated as low priority for Commission action after application of these pre-established criteria. Given that low rating, the technical nature of the violations, the presence of Mica's spoken stand-by-your ad statement, and the Committee's swift corrective action, we recommend that the Commission dismiss the allegations consistent with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources.⁷ We also recommend that the Commission close the file as to all Respondents and send the appropriate letters.

Lisa J. Stevenson
Acting General Counsel

Kathleen M. Guith
Associate General Counsel

⁵ 52 U.S.C. § 30120; 11 C.F.R. § 110.11(c)(3)(ii).

⁶ 11 C.F.R. § 110.11(c)(3)(ii)-(iii).

⁷ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985)

6.23.17

Date

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Wanda D. Brown
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